

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KD, a minor, by his parent	:	
and natural guardian, Kenneth Dieffenbach, and	:	
KENNETH DIEFFENBACH in his own right	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO. 07-515-***
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

AFFIDAVIT OF KENNETH DIEFFENBACH

STATE OF DELAWARE)
) SS.
NEW CASTLE COUNTY)

BE IT REMEMBERED that on this 23rd day January, 2008, personally appeared before me, the subscriber, a Notary Public for the State and County aforesaid, Kenneth Dieffenbach, fter being duly sworn according to law did depose and say that:

1. When my son, Kevin, was five years old, I took him to NIH for evaluation of his heart condition which was called "obstructive hypertrophic cardiomyopathy." Even though my son had never exhibited any symptoms relating to his heart condition, I was looking for the best care I could find for him.

2. Kevin was seen by Dr. Lamah Fananapazir. I was shocked when Dr. Fananapazir told me that my son would die if a pacemaker was not implanted in him. Dr. Fananapazir was emphatic about this, so much so that he scared me into consenting to the insertion of the pacemaker.

3. At no time did Dr. Fananapazir or anyone else at NIH tell me the implantation

of a pacemaker was actually part of an experiment being conducted at NIH. And that Kevin's condition did not call for the implantation of the pacemaker.

4. For the next three years, I continued to take Kevin NIH. Over this period of time, Kevin started having severe symptoms, which continued to get worse. Dr. Fananapazir prescribed medicine, but it did nothing to improve my son's symptoms. Finally, Dr. Fananapazir told me that there was nothing more that NIH could do for Kevin. He also told me that what Kevin needed was a heart transplant.

5. In October of 1998, I took my son to Childrens Hospital in Boston. There I learned that it was the medicine that Dr. Fananapazir had prescribed that was causing Kevin's symptoms. As soon as Kevin stopped taking the medicine, his symptoms improved.

6. Contrary to what I was told by Dr. Fananapazir, I was told by the doctors in Boston that Kevin did not need a heart transplant, that he did not need an ICD, and that he was not even considered a high risk patient.

7. On September 8, 2003, Kevin had a heart attack. I took him back to the doctors in Boston, who told me that the heart attack was caused by the pacemaker, which was defective. I did not know at that time that the pacemaker should never have been implanted in the first place.

8. Because the pacemaker was defective, the doctors decided that it had to be removed. Unfortunately, they told me that they could not remove the pacemaker without implanting an ICD in my son.

9. On May 10, 2004, Kevin had to undergo open heart surgery. After that was done, the surgeon told me that the pacemaker should never had been implanted in the first place. I was at this time that I discovered that the treatment my son received at NIH actually made his underlying condition worse. It was also at this time that I learned that had NIH provided

appropriate care for my son, the pacemaker would never have been implanted, and my son would not have had the heart attack in 2003.

10. I am one of the plaintiffs in this case, and I have read the answering brief. To the best of my knowledge, the facts set forth in the answering brief are true and correct.



Kenneth Dieffenbach

WITNESS my hand and seal in the State and County aforesaid.



Notary Public

**FREDERICK K. FUNK
ATTORNEY AT LAW**